North Dakota Tax Incentives

For Business

Office of State Tax Commissioner Rick Clayburgh, Commissioner

A Message from Tax Commissioner Rick Clayburgh

Greetings!

North Dakota is a great place to do business. It is a well-known fact that we have one of the nation's best educated and most dedicated work forces. And, North Dakota offers businesses a helpful tax climate that promotes growth and opportunity.

From traditional tax incentives to the innovative Renaissance Zones, North Dakota has much to offer. This brochure outlines the incentives for which you may qualify.

As you read the brochure, you may find opportunities that are new to you. Whether you are an existing business or expanding, or a business new to North Dakota, I know you will like what you see.

I encourage you to call us with your questions about North Dakota taxes. We would like the chance to help you any way we can.

Sincerely,

Rick Clayburgh North Dakota Tax Commissioner

Rel Clayburgh

Property Tax Exemption

Paramaters

Any new or expanding business project may be granted a property tax exemption for up to five years. Two extensions are available:

- ◆ Agricultural processors may be granted a partial or full exemption for up to five additional years.
- ◆ A project located on property leased from a government entity qualifies for an exemption for up to five additional years upon annual application by the project operator.

In addition to, or instead of, an exemption, local governments and any project operator may negotiate payments in lieu of property tax for a period of up to 20 years from the date project operations begin.

Qualifications

To qualify, a project must be a new or expanded revenue producing enterprise. All buildings, structures or improvements used in, or necessary to, the operation of the project qualify. The structure might be the project's buildings or the project's quarters within a larger building. Land does not qualify for an exemption.

A project is not eligible for an exemption if:

- a tax exemption was received under tax increment financing, or
- the governing body determines the exemption fosters unfair competition or endangers existing business.

Application Procedures

- The project operator applies to the city governing body if the project is located within city boundaries, or the county commission if the project is located outside city boundaries.
- ◆ The application must be made and approved before construction of a new structure begins. If an existing structure will be occupied, application must be made and approved before the structure is occupied.

- Nonvoting representation of affected school districts and townships must be included in the negotiation and deliberation of granting a property tax exemption or payment in lieu of taxes for new or expanding businesses.
- ◆ The project operator must publish two notices in the official newspaper of the city or county at least one week apart if the appropriate governing body determines there are local competitors. The last notice must be published at least 15 days, but not more than 30 days, before the application is considered
- A public hearing on the application must be held.
 After the public hearing, the appropriate governing body acts on the application.

[Reference: North Dakota Century Code ch. 40-57.1]

Personal Property Tax Exemption

North Dakota exempts all personal property from property taxation *except* that of certain oil and gas refineries and utilities.

[Reference: N.D.C.C. §§ 57-02-04 and 57-02-08]

Sales Tax Exemptions

Manufacturing Equipment

A new or expanding plant may exempt machinery or equipment from sales and use taxes if it is:

- used primarily for manufacturing or agricultural processing, or
- used solely for recycling.

The expansion must increase production volume, employment, or the types of products that can be manufactured or processed.

[Reference: N.D.C.C. § 57-39.2-04.3]

Computer and Telecommunications Equipment

A sales and use tax exemption is allowed for purchases of computer and telecommunications equipment that are an integral part of a primary sector business or a physical or economic expansion of a primary sector business, provided the primary sector business has been certified by the Department of Commerce Division of Economic

Development and Finance. The exemption does not extend to the purchase of replacement equipment.

[Reference: N.D.C.C. § 57-39.2-04.3]

Agricultural Processing Plant Construction Materials

Construction materials used to construct an agricultural processing facility are exempt from sales and use taxes. The processor must apply to the State Tax Commissioner for a refund of the tax paid by a contractor.

[Reference: N.D.C.C. § 57-39.2-04.4]

Wind-Powered Electrical Generating Facilities

A sales and use tax exemption is allowed for purchasing building materials, production equipment, and other tangible personal property used in the construction of wind-powered electrical generating facilities between July 2001 and January 2011. To be eligible, a facility must have at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.

[Reference: N.D.C.C. §§ 57-39.2-04.2 and 57-40.2-04.2]

Sales Tax Exemption Approval Process

The manufacturer, recycler, wind-powered electrical generating facility, or qualifying primary sector business must receive *prior* approval from the State Tax Commissioner to qualify for the exemption at the time of purchase. If prior approval is not received, the manufacturer, recycler, wind-powered electrical generating facility, or qualifying primary sector business must pay the tax and then apply to the State Tax Commissioner for a refund.

The exemption is *not* available to contractors. Manufacturers, recyclers, wind-powered electrical generating facilities, or qualifying primary sector businesses may apply for a refund of the appropriate portion of the tax actually paid by the contractors on eligible machinery, equipment, computers, and telecommunications equipment.

[Reference: N.D.C.C. § 57-39.2-04.3]

Income Tax Exemption

Qualifications

A new or expansion project in a primary sector business or tourism qualifies for an income tax exemption for up to five years. "Primary sector business" means an enterprise that creates wealth by using knowledge or labor to add value to a product, process, or service. The exemption is limited to income earned from the qualifying project. The project operator must file a state income tax return even though an exemption is granted. (Note: This exemption is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. §57-38-30.3.)

Limitations

A project is not eligible for an exemption if:

- it received a tax exemption under tax increment financing; or
- there is a recorded lien for delinquent property, income, sales or use taxes against the project operator or principal officers; or
- the exemption fosters unfair competition or endangers existing business.

Application Procedures

- ◆ The project operator applies to the State Board of Equalization, c/o State Tax Commissioner.
- ◆ The application must be filed no later than one year after the commencement of project operations.
- ◆ The application is reviewed by the Department of Commerce Division of Economic Development and Finance.
- ◆ The project operator must provide notice to competitors as prescribed by the State Board.
- ◆ The State Board considers the application and any testimony provided at a public meeting. The State Board then grants or denies the exemption and certifies the results to the State Tax Commissioner

[Reference: N.D.C.C. ch. 40-57.1]

Property Tax Reduction

The taxable value of a centrally assessed wind turbine electric generation unit with a nameplate generation capacity of 100 kilowatts or more, on which construction is completed before January 1, 2011, is calculated at 3 percent of assessed value instead of 10 percent (which applies to other property).

Jobs Training Assistance

A program is available that assists a new or expanding primary sector business with training new employees. The cost of the training under the program is paid for in whole or in part with the income tax withheld from the new employees. For more information about this program, contact Job Service North Dakota, PO Box 5507, Bismarck, ND 58506-5507, (701) 328-2814.

[Reference: N.D.C.C. ch. 52-02.1]

Income Tax Incentives

Wage and Salary Credit

A corporation doing business in North Dakota for the first time may take an income tax credit equal to:

- ◆ 1% of wages and salaries paid during the tax year for each of the first three years of operation; and
- ◆ 1/2% of wages and salaries paid during the tax year for the fourth and fifth years.

A corporation qualifies for the credit if it:

- did not receive a new business income tax exemption;
- was not created from a reorganization or acquisition of an existing North Dakota business; and
- ◆ is engaged in assembling, fabricating, manufacturing, mixing or processing of an agricultural, mineral or manufactured product.
 [Reference: N.D.C.C. § 57-38-30.1]

Seed Capital Investment Credit

An individual, estate, or trust is allowed an income tax credit for investing in a business certified by the Department of Commerce Division of Economic Development and Finance. The credit is equal to 30% of an investment of at least \$5,000 but not more than \$50,000. Not more than 50% of the credit is allowed in any taxable year. The unused credit may be carried forward up to four years.

Tax credits for investments in one qualified business may not exceed \$250,000. The total amount of tax credits allowed is \$1 million for investments made in all qualified businesses through calendar year 2002. The total amount of tax credits allowed for investments made after calendar year 2002 is limited to \$2.5 million.

This information reflects the law as amended by the 2001 Legislature, effective for tax years after 2001. [Reference: N.D.C.C. ch. 57-38.5]

Certified Nonprofit Development Corporation Investment Credit

An income tax credit is allowed to an individual, estate, trust, or corporation for buying membership in, paying dues to, or contributing to a certified nonprofit development corporation. The credit is equal to:

- ◆ 25% of the qualifying payments, or
- ◆ \$2,000, whichever is less.

The unused credit may be carried forward seven years. (Note: This credit is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. § 57-38-30.3.)
[Reference: N.D.C.C. §§ 10-33-124 and 57-38-01.17]

Investments in Venture Capital

A. Credit for Investment in a North Dakota Venture Capital Corporation

An income tax credit is allowed to an individual, estate, trust or corporation for investing in a qualified North Dakota venture capital corporation. The credit is equal to the lesser of 25% of the amount invested or \$250,000. The unused credit may be carried forward seven years. (Note: This

credit is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. § 57-38-30.3.)

[Reference: N.D.C.C. ch. 10-30.1]

B. Credit for Investment in the North Dakota Small Business Investment Company

An income tax credit is allowed to an individual, estate, trust, corporation, financial institution (under N.D.C.C. ch. 57-35.3), or insurance company (under N.D.C.C. § 26.1-03-17) for investing in the North Dakota Small Business Investment Company. The credit is equal to 25% of the amount invested (50% in the case of a financial institution or insurance company). The unused credit may be carried forward seven years. (Note: This credit is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. § 57-38-30.3.)

[Reference: N.D.C.C. ch. 10-30.2]

An individual, estate, or trust is allowed a deduction of up to \$5,000 (or \$10,000 on a joint return) for investment in a qualified North Dakota venture

C. Deduction for Investment in Venture Capital

capital corporation. This deduction may be taken only in the year the investment is made. (Note: This deduction is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. § 57-38-30.3.)

[Reference: N.D.C.C. § 57-38-01.2(1)(q)]

D. Deduction for Venture Capital Dividends

An individual, estate, trust, or corporation may deduct the amount of any dividends (up to \$15,000 for an individual, estate, or trust) received from a qualified North Dakota venture capital corporation. (Note: This deduction is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. § 57-38-30.3.)

[Reference: N.D.C.C. §§ 57-38-01.2(1)(i) and 57-38-01.3(1)(g)]

Research Expense Credit

A corporation is allowed an income tax credit for the expenses of conducting research in North Dakota. The credit is 8% of the first \$1.5 million of expenses in excess of base period research expenses, and 4%

of expenses over that. Research expenses and base period research expenses are the same as defined in Internal Revenue Code section 41. The unused credit may be carried back three years and forward fifteen years.

[Reference: N.D.C.C. § 57-38-30.5]

Beginning Businessperson Deductions

An eligible businessperson who sells a business located in North Dakota to a qualifying beginning businessperson may deduct part or all of the income derived from the sale. An eligible businessperson who leases a business located in North Dakota to a qualifying beginning businessperson for three or more years may deduct up to \$25,000 of the net lease income in each year of the lease. (Note: This deduction is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. § 57-38-30.3.)

[Reference: N.D.C.C. §§ 57-38-01.2(1)(n), 57-38-71, 57-38-72, 57-38-73, and 57-38-74]

Geothermal, Solar, or Wind Energy Credit

A taxpayer is allowed an income tax credit for installing a geothermal, solar, or wind energy device in a building or on property owned or leased in North Dakota.

The credit for a device installed before January 1, 2001, is equal to 5% of the cost of acquisition and installation and is allowed in each of the first three tax years. For a device installed after December 31, 2000, the credit is equal to 3% of the cost of acquisition and installation and is allowed in each of the first five tax years. In all cases, the credit is first allowed in the year the installation is completed. For pass-through entities, the amount of credit is determined at the entity level and passed through to the partners, shareholders, or members in proportion to their respective interests in the pass-through entity. (Note: This credit is not allowed to an individual, estate, or trust which calculates an income tax under N.D.C.C. § 57-38-30.3.)

[Reference: N.D.C.C. § 57-38-01.8]

Agricultural Commodity Processing Facility Investment Tax Credit

An individual, estate, or trust is allowed an income tax credit for investing in an agricultural commodity processing facility that is certified by the Department of Commerce Division of Economic Development and Finance. The credit is equal to 30% of the first \$20,000 invested. Not more than 50% of the credit is allowed in any tax year. The credit in any tax year may not exceed 50% of the tax liability. The unused credit may be carried forward up to fifteen years.

[Reference: N.D.C.C. ch. 57-38.6]

Renaissance Zones

Businesses and individuals may qualify for income and property tax exemptions and credits for purchasing, leasing, or making improvements to real property located in a North Dakota renaissance zone. An income or financial institution tax credit is also allowed to taxpayers who invest in a renaissance fund organization established by a renaissance zone. A renaissance zone is a designated area within a city that is approved by the Department of Commerce Division of Community Services.

For more information contact your local zone authority, the Department of Commerce Division of Community Services, or the Office of State Tax Commissioner. [Reference: N.D.C.C. ch. 40-63]

Tax Facts

You'll find plenty of reasons why North Dakota is a great place to do business. Here are just a few:

- Unlike most states, North Dakota allows the federal income tax to be deducted for corporation income tax purposes.
- ◆ Our low individual income tax rates are competitive with other states that levy an income tax. The rates—ranging from 2.1% to 5.54%—are applied to federal taxable income as adjusted by certain state adjustments.
- ◆ In North Dakota you don't have to pay sales tax on many items that other states tax. For example, electricity, most professional services, and groceries are not taxed. Your cost of doing business is lower in North Dakota.
- ◆ North Dakota exempts all personal property from taxation (except certain oil and gas refineries and utilities). That means no property tax on items like your office equipment, inventory, accounts receivable, or materials in process.
- ◆ We have some of the most affordable workers compensation and unemployment insurance tax rates in the nation.

Want to know more about doing business in North Dakota? Contact the Department of Commerce Division of Economic Development and Finance at:

www.ndcommerce.com

(701) 328-5300

Contact Information

Office of State Tax Commissioner

Rick Clayburgh, Commissioner

State Capitol, 600 E Boulevard Ave.

Bismarck ND 58505-0599

Phone: (701) 328-2770 or (800) 638-2901

TTY: (800) 366-6888 (Relay ND)

E-mail: taxinfo@state.nd.us www.ndtaxdepartment.com

Department of Commerce Division of Economic Development and Finance

400 É Broadway, Suite 50

Bismarck ND 58502-2057

Phone: (701) 328-5300 E-mail: ndedf@state.nd.us www.ndcommerce.com

Job Service North Dakota

PO Box 5507

Bismarck ND 58506-5507

Phone: (701) 328-2814 or (800) 472-2952

E-mail: jsndweb@state.nd.us

www.state.nd.us/jsnd

Center for Innovation

University of North Dakota

PO Box 8372

Grand Forks ND 58202-8372

Phone: (701) 777-3132 www.innovators.net

Institute for Business and Industry Development

North Dakota State University

PO Box 5256

Fargo ND 58105-5256

Phone: (701) 231-1001

E-mail: ibid@ndsuext.nodak.edu

www.ndsu.nodak.edu/ibid

Internal Revenue Service

Phone: (800) 829-3676—Forms and Publications

(800) 829-1040—Questions

www.irs.gov

Small Business Development Centers

University of North Dakota

PO Box 7308

Grand Forks ND 58202-7308

Phone: (701) 777-3700 or (800) 445-SBDC (7232)

E-mail: ndsbdc@sage.und.nodak.edu

bpa.und.nodak.edu/sbdc

Women & Technology Program

PO Box 2535

Bismarck ND 58502-2535 Phone: (701) 328-5885

E-mail: info@trainingND.com

www.techwomen.org

One Stop Capitol Center

Business Information Center

700 E Main Ave.

Bismarck ND 58501

Phone: (701) 328-5850 or (800) 544-4674 E-mail: ndbic@btigate.com

www.basinelectric.com/~onestop

Dakota Certified Development Corp

51 Broadway, Suite 500 700 E Main Ave.

Fargo ND 58102 Bismarck ND 58501

Phone: (701) 293-8892 Phone: (701) 328-5851

E-mail: dcdc@fedc.com www.dakotacdc.com

Tribal Business Information Center

Spirit Lake Tribal Planning Office

Box 359

Fort Totten ND 58334

Phone: (701) 766-1237

Fort Berthold Tribal Planning Office

HC3 Box 2

New Town ND 58763

Phone: (701) 627-3623

Sitting Bull Tribal Planning Office

HC1 Box 4

Fort Yates ND 58538

Phone: (701) 854-3861

Office of State Tax Commissioner
State Capitol
600 E Boulevard Avenue
Bismarck ND 58505-0599
Phone: (701) 328-2770

E-mail: taxinfo@state.nd.us www.ndtaxdepartment.com

www.discovernd.com

24843 April 2002